

UNITED STATES DISTRICT COURT

Southern

District of

New York

Merrill Lynch Business Financial Services Inc.

SUMMONS IN A CIVIL ACTION

D.M.S. Diamond Co. Inc., Marc Steinberg, and
"John Doe #1" through "John Doe #12"

07 CV 7048
CASE NUMBER:
JUDGE PRESKA

TO: (Name and address of Defendant)

D.M.S. Diamond Co. Inc. 10 West 47th Street, New York, NY 10036

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)
Spencer L. Schneider, Esq., 70 Lafayette Street, New York, NY 10013

an answer to the complaint which is served on you with this summons, within Twenty (20) days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

J. MICHAEL McMAHON
CLERK

DATE

AUG 07 2007
Format m/d/yyyy

(By) DEPUTY CLERK

Jessie K. Long

MERRILL LYNCH BUSINESS FINANCIAL SERVICES INC.

Index #: 07 CV 7048 (PRESKA)

Plaintiff(s)

- against -

Date Filed:

D.M.S. DIAMOND CO. INC., ETAL

AFFIDAVIT OF SERVICE

Defendant(s)

STATE OF NEW YORK: COUNTY OF NEW YORK ss:

STEVEN C. AVERY BEING DULY SWORN DEPOSES AND SAYS DEPONENT IS NOT A PARTY TO THIS ACTION, OVER THE AGE OF EIGHTEEN YEARS AND RESIDES IN THE STATE OF NEW YORK.

That on August 13, 2007 at 11:55 AM at

THE OFFICE OF THE SECRETARY OF STATE
41 STATE STREET
ALBANY, NY12231

deponent served the within two true copies of the SUMMONS & COMPLAINT, CIVIL COVER SHEET, RULE 7.1 STATEMENT AND JUDGES' RULES on D.M.S. DIAMOND CO. INC., the defendant/respondent therein named,

SECRETARY OF STATE by delivering two true copies to MS. CAROL VOGT personally, an agent in the office of the Secretary of State of the State of New York and knew said individual to be AUTHORIZED to accept thereof.

Service upon the N.Y.S. Secretary of State under Section 306 of the Business Corporation Law and tendering the required fee of \$40.00.


Deponent further states that he describes the person actually served as follows:

| <u>Sex</u> | <u>Skin Color</u> | <u>Hair Color</u> | <u>Age (Approx.)</u> | <u>Height (Approx.)</u> | <u>Weight (Approx)</u> |
|---------------|-------------------|-------------------|----------------------|-------------------------|------------------------|
| <u>FEMALE</u> | <u>WHITE</u> | <u>BLACK</u> | <u>50</u> | <u>5'3</u> | <u>135</u> |

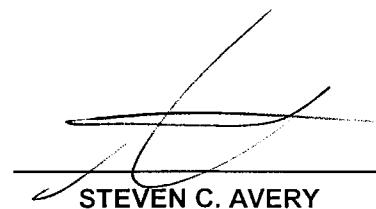
WEARS GLASSES

Sworn to me on: August 14, 2007

Linda Forman
Notary Public, State of New York
No. 01FO5031305
Qualified in New York County
Commission Expires August 1, 2010


Robin M. Forman
Notary Public, State of New York
No. 01FO6125415
Qualified in New York County
Commission Expires April 18, 2009

Larry Yee
Notary Public, State of New York
No. 01YE5015682
Qualified in New York County
Commission Expires July 26, 2009


STEVEN C. AVERY

Docket #: 495985